

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending "Code of Ordinances, City of Lowell, Massachusetts," with respect to Chapter 110 entitled Bicycles, Skateboards and Roller skates by creating a new Article II entitled Pilot Bicycle Share Service.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

"The Code for the City of Lowell," hereinafter called the "Code", adopted by the City Council on December 23, 2008, is hereby amended with respect to Chapter 110 by creating a new Article II entitled Pilot Bicycle Share Service.

ARTICLE II
PILOT BICYCLE SHARE SERVICE

§110-5. License Requirements & Rules

The City Council exercises regulatory control over public ways in the City of Lowell. In this capacity, any private bicycle share (or "bike share") service enterprise utilizing portions of the public way, including Lowell and/or UMass Lowell property for the purposes of installing bike share docks, parking free-standing bike share inventory, or otherwise operating a bike share service must be licensed by the City of Lowell.

Each license shall be valid for a one year "pilot" program from the date of issue in the interests of allowing operation of an emerging business model, while also allowing the City to study the impact of bike sharing on traffic, transportation, safety, economic development, and other factors before determining the long-term value and appropriateness of bike share services in Lowell. Bike Share Operator licenses shall not be transferred without the consent of the Licensing Board.

§110-6. Definitions.

LICENSING BOARD is the City Council.

BIKE SHARE SERVICE is any for profit or non-profit enterprise which provides unsupervised bicycle rentals to individual consumers for short-term uses, including commuting, tourism, recreation, and other point-to-point travel, utilizing membership programs, mobile device applications, or unstaffed rental equipment including docking stations.

BIKE SHARE OPERATOR'S LICENSE (OR PERMIT), as used in this Ordinance, is authorization to operate a business providing bike share rentals within the City of Lowell.

DOCK-BASED BIKE SHARE is any bike share service which operates by providing access to inventory at fixed dock locations where shared bicycles (and only the operator's shared bicycles) are secured, and may be accessed and returned by users through appurtenant unstaffed pay stations or mobile devices.

FREE-STANDING BIKE SHARE is any bike share service which operates by providing access to inventory at any specifically permitted or otherwise authorized public or private property location within the City of Lowell independent of a dedicated dock station, including public ways, and public and private bicycle racks.

PUBLIC-WAY is for the purposes outlined herein, any public street, sidewalk, or path owned, controlled, or operated by the City of Lowell.

§110-7. License Eligibility -- Competitive Procurement.

As a novel commercial enterprise utilizing the public way and likely public areas for storage/access to its inventory, applicants shall only be considered for a license following a competitive procurement process consistent with the requirements of M.G.L. c. 30B.

§110-8. Specific Operator Requirements.

A. Safety

- (1) All bike share bicycles available for use in the City of Lowell shall meet the consumer product safety standards set forth in United States Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512.
- (2) All bike share bicycles available for use shall also be equipped to meet safety requirements set forth in M.G.L. c. 85 §11B, including, but not limited to §§11B(7) – (10).

- (3) All Bike share Operators shall also take all reasonable measures to ensure compliance with all relevant requirements of the City of Lowell Ordinances Ch. 266 Vehicles and Traffic §1 – 21.
- (4) All operators shall provide proof of a mechanism or other satisfactory means for customers to notify the company that there is a safety or maintenance issue with a bike share bicycle.
- (5) All operators shall provide proof via a mobile device application, visible notice on each available bicycle such as a decal, or other satisfactory means that each consumer is notified that:
 - i. Helmets are recommended to be worn at all times and are required for persons under sixteen;
 - ii. Bicyclists must obey state and local traffic laws; and
 - iii. Bicyclists must yield to pedestrians on sidewalks.
6. Free-standing bike share operators must also provide proof via mobile device application, visible notice on each available bicycle such as a decal, or other satisfactory means that each consumer is notified that Bicycles must not be stored or parked at the end of use in a manner that obstructs pedestrian or vehicular traffic on the public way or in any way inhibits access to public spaces.
- (7) Bike Share Operators shall demonstrate that they have an adequate plan to ensure maintenance of bicycles, including without limitation periodic checks of brakes, cables, and frames. Available bicycles must also be outfitted with a working headlight and rear light.

§110-9. Insurance and Indemnification.

- A. All permitted operators shall provide proof of and maintain insurance in the following categories in the following amounts:
 - (1) Worker's Compensation Insurance as required per M.G.L. c. 149, s. 34 and M.G.L. c. 152, as amended.
 - (2) Commercial General Liability
 - (i) Personal Injury
\$1,000,000 each occurrence
\$2,000,000 aggregate

- (ii) Property Damage
\$1,000,000 each occurrence
\$2,000,000 aggregate
- (3) Vehicle Liability
 - (i) Personal Injury
\$500,000 each person
\$1,000,000 aggregate
 - (ii) Property Damage
\$300,000
- (4) The City of Lowell shall be listed as “additional insured,” covering each bicycle available for use, parked, or left standing or unattended on any public way under the jurisdiction of the City of Lowell AND each user using the bicycle during the period of use.
- (5) Prior to issuance of a license, all bike operators shall execute an indemnification agreement to indemnify and holding harmless the City of Lowell from any claims and/or litigation whatsoever arising out of providing bike share bicycles for use and/or consumer use of such bicycles.

§110-9. Storage of Bicycles/Parking

- A. Dock-Based Bike Share Operator bicycles shall be stored and made available for each new use only at approved dock stations.
 - (1) Any dock installation on the public way or on public property, requires a separate annual permit for each location approved by the Licensing Board.
 - (2) The City’s Department of Planning and Development and City Engineering Department will consult applicants on feasible dock locations and necessary terms, limitations, and conditions relevant to each.
 - (3) The Bike Share Operator shall take reasonable measures to monitor bicycle usage to ensure that bicycles are returned to approved docking stations for subsequent uses.

B. Free-standing Bike Share Operator bicycles shall be made available for each new use in appropriate public areas and spaces, including safe portions of public ways as outlined below, or upon private property approved by the Operator.

(1) Free-standing bike share bicycles shall be parked in the part of the sidewalk adjacent to the roadway curb (so long as an ADA Compliant 4-feet of pedestrian clear zone is maintained), at a public bike rack, or other locations expressly permitted by the City.

(i) Use of public sidewalks must not:

- a. adversely affect the streets or sidewalks;
- b. unreasonably inhibit pedestrian movement; or
- c. create conditions which are a threat to public safety and security.

(2) Free-standing bike shares utilizing bicycle racks shall take reasonable measures to ensure that sufficient bicycle rack room is available for non-bike share, private bicycles in all approved public locations.

(3) Free-standing bike share bicycles must be parked upright.

(4) Free-standing bike share bicycles must be parked and stored in a manner not disruptive to the use of the public way by pedestrians, other cyclists, or motorists, including immediately adjacent to or within: a loading zone, accessible parking zone or other facilities specifically designated for handicap accessibility, a fire hydrant, curb ramp, or an entryway, driveway, or parking lot.

(5) The Bike Share Operator shall take reasonable measures to monitor bicycle usage to ensure that bicycles parked incorrectly or inoperable are removed; also, any bicycle that is parked incorrectly or is inoperable shall be re-parked or removed by the vendor within 24 hours of receiving notice, and the City shall have the right to remove bicycles that are incorrectly parked if the Bike Share Operator fails to respond within 24 hours of notice, and to remove any incorrectly parked bicycles posing a safety hazard immediately

§110.10. Operational Requirements

A. Bike Share Operators shall have a 24-hour customer service phone number for customers to report safety concerns, complaints, or ask questions. 24-hour customer service shall

also be available to address bicycle re-location for violations of the rules and orders herein. Such 24-hour customer service contact information shall be reasonably accessible to both users and non-users.

- B. Bike Share Operators shall also provide a direct contact for the Department of Planning and Development for the purposes of facilitating re-location of bike docks or free-standing individual bikes.
- C. Any inoperable bicycle, or any bicycle that is not safe to operate shall be removed from the right-of-way within the timeframe set forth in §110-9 (B)(5) above, and shall be repaired before putting the bicycle into service.
- D. Bicycles parked in one location for more than seven consecutive days without moving may be removed by the municipality at the expense of the bike share vendor, or shall be satisfactorily recalibrated by the vendor.
- E. All Bike Share Operators shall have a minimum of bicycle fleet of 50, and a maximum bicycle fleet of 500. Operators shall notify the Licensing Board at least two-weeks in advance of any change to fleet size for any reason other than maintenance and repair.
- F. Bike Share Operators are required to work in a cooperative manner with the existing and emerging multi modal transportation systems. This includes, but is not limited, to car sharing services, the MBTA, the LRTA and other bike sharing systems. It is the responsibility of the Bike share operator(s) to interact with the City of Lowell using shared access to Civic Ready or relevant citizen reporting system or current reporting mechanism. Such cooperation includes resolving any and all business issues such as bikes that are parked in the City of Lowell and need to be retrieved in a timely manner
- G. Bike Share Operators must ensure that their system equitably services low-income neighborhoods, which may include ensuring accessibility of bicycles in low-income neighborhoods, offering means of accessing bicycles that do not require the use of a smartphone and/or access to a credit or debit card, and offering a multilingual mobile app.
- H. The City Council reserves the exclusive right to terminate this license at any time and require that the entire fleet of bicycles be removed from the City of Lowell public ways and spaces within thirty (30) days written notice.

§110.11. Data Sharing & Security

- A. All Bike Share Operators shall provide the City of Lowell access to their bicycle location and trip routing application programming interface (API).
- B. Bike Share Operators shall take measures necessary to ensure that API does not personally identify users in any way.
- C. The City of Lowell is permitted to publicly use each permitted operator's API and display real-time data for the purposes of identifying available bicycles.
- D. The City of Lowell is permitted to make each Operator's API open and available for use by the public.
- E. The City of Lowell is also entitled to quarterly summary data to allow the City to study the impact on bike sharing on traffic, transportation, safety, tourism, and economic development.
- F. Prior to issuance of a permit, all bike operators shall execute a data security agreement to delineate the operators' responsibilities with respect to data collected on bike share usage within the municipality and assure compliance with state and federal data security laws for users.

§110.12. Pilot License Fee

Applicants shall pay an annual \$300 fee for a License for Bike Share Operation after the conclusion of the Pilot Program.¹

§110.13. License renewal, suspension or revocation.

A. Immediate Suspension

Where necessary to ensure public safety, the Licensing Board or the Lowell Police Department under the authority of the Licensing Board may immediately suspend the license of any Bike Share Operator. Following suspension, the Licensing Board will promptly hold a hearing where it will determine the length of the suspension, or lift the suspension, or revoke the Operator's right to provide a Bike Share Service in the City of Lowell.

B. Suspension or Revocation After Notice and Hearing

¹ This fee is subject to change and shall be waived in the first year of the Pilot Program in recognition of the substantial costs and risks in the early implementation of a pilot bike share enterprise in the City of Lowell so long as license holders are not paying fees to other Massachusetts communities in which they operate. License holders and applicants are advised to expect such fees to change in future years.

After notice to any licensed Bike Share Operator, the Licensing Board or the Lowell Police Department under the authority of the Licensing Board may hold a hearing to determine whether the licensee or permit-holder is or has been in violation of this Ordinance or any provision of the Code of Ordinances or state or federal law. If, after such hearing, the Licensing Board finds that violations have occurred, the Licensing Board may issue a decision suspending the license or permit, imposing additional conditions on the license or permit, or revoking the license or permit.

C. Cessation of Operation

When a licensee or permit-holder ceases employment or operation under this Ordinance, the licensee or permit-holder must surrender his or her license to the Licensing Board.

D. License Renewals

All Bike Share Operator licenses expire within one year of issuance and may be renewed at the discretion of the Licensing Board for a further license period not to exceed one year.

§110.14. Miscellaneous provisions

A. Penalties for Violation

In addition to other penalties recited herein, any Bike Share Operator violating any of the provisions of this Ordinance shall forfeit and pay a fine not exceeding fifty (\$50) dollars for each offense payable to the City of Lowell.

B. Prohibition on Assignment

An Operator may not assign or delegate, in whole or in part its rights to operate under the terms of this Ordinance.

C. Wintertime operations

The City of Lowell has discretion over whether the City will continue to remain in operation during winter months.


D. Severability

If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or

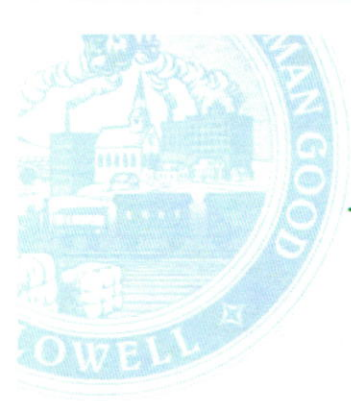
invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.

This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 and 40A of the General Laws of the Commonwealth of Massachusetts.

APPROVED AS TO FORM:


Christine P. O'Connor
City Solicitor

Ordinance/bikeshare



City of Lowell - Law Department

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August 10, 2018

City Manager Eileen Donoghue
Mayor William Samaras
Members of the City Council

Re: Ordinance to Amend and add New Article on Pilot Bicycle Share Service

Dear Manager Donoghue, Mayor Samaras and Members of the City Council:

The attached Ordinance amends the Code of Ordinances, City of Lowell, Massachusetts, with respect to Chapter 110 entitled Bicycles, Skateboards and Roller skates by creating a new Article II entitled Pilot Bicycle Share Service.

Passage of this ordinance will serve to allow dock-based and dockless bike rentals to individual consumers for short-term uses.

Yours very truly,

Christine P. O'Connor
City Solicitor

V:ordinance/bikeshare

cc: Kara Keefe Mullin, Assistant City Manager
Rachel Brown – 1st Assistant City Solicitor
Eda Matchak, Director of Elections
Nicholas Navin, Parking Director
Yovani Baez-Rose, Neighborhood Planner
Tom Miliano, UMass Lowell
Charles Arnold
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